

STATEMENT OF BARCLAYS BANK PLC

by

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before

THE COMMITTEE ON BANKING AND FINANCIAL SERVICES

of

THE UNITED STATES HOUSE OF REPRESENTATIVES

September 14, 1999

Good Morning, Chairman Leach and Members of the Committee. My name is Chris Duncan. I am here today on behalf of Barclays Bank PLC. Barclays is one of the largest financial services groups in the United Kingdom founded, by its original banking partners, in 1690. Today our banking business is world-wide. I am International and Private Banking Director with Barclays Bank PLC and the Senior Executive at Barclays responsible for investigating and responding to all issues concerning Barclays activities during World War II. On behalf of Barclays, I thank the Committee for the opportunity to address it today.

It is my understanding that the Committee is interested in learning about activities underway at Barclays in both the United Kingdom and France to address claims for compensation from Holocaust victims (or their heirs) who may have held accounts at Barclays at the outset of World War II. Let me start first with a brief overview of Barclays approach to these issues, then describe the current compensation efforts in the United Kingdom. Finally, I will outline the efforts and the product of our investigation into our operations in France.

Barclays Commitment

Over the course of the last several years, questions have been raised in both the United Kingdom and France about the fairness of measures undertaken at the conclusion of World War II for compensating victims of Nazi persecution for assets seized or frozen during the war. Ever since these questions were first raised, Barclays made a promise to devote whatever resources were necessary to investigate these matters and to ensure

that if any such assets remained with our bank that they would be identified and returned. We made an immediate decision to put aside technical arguments about statutes of limitations and the like; we undertook to conduct research far beyond our internal sources; and we opened and engaged in a serious dialogue with Jewish organizations seeking their input and guidance that continues today. Put simply, we made a commitment to do what is fair, right and just and to approach these issues with a sense of purpose and resolve in doing so. I am delighted that we have learned so much in the course of our investigations and I am gratified by the assistance we have already been able to provide Holocaust victims and their heirs. Our commitment is a continuing one.

It is my understanding that although the hearing today is to be focused primarily on banking activities during the war in Austria and France the Committee would briefly like me to describe what efforts are ongoing within the banking community in the United Kingdom to address issues concerning assets of victims of Nazi persecution. I will turn to those efforts first and then address our investigation in France. As you may know, Barclays had no presence in Austria at the time of the war.

Banking Activities in the United Kingdom During World War II

Two days after the German invasion of Poland on September 1, 1939, the United Kingdom declared war against Germany. From that point on, until the ultimate victory of the U.K., the United States and their allies against the Axis powers in 1945, my country and its people were at war.

With one significant exception, many ordinary banking activities continued to be conducted throughout the war. In general, customers of Barclays resident in the United Kingdom had access to their accounts and assets at all times. The significant exception was the result of the passage of the Trading with the Enemy Act on the outbreak of war. That legislation, which was quite similar to legislation later in effect in the United States, made it a criminal offense for any U.K. business, including banks, to have any commercial or financial dealings with "the enemy." As is ordinarily the case during any declared state of war, the U.K. Government's aim was to prevent enemies of the United Kingdom from benefiting from any assets located in the U.K.

The U.K. Government defined "the enemy" as *anyone* residing in enemy territory. Government administrators subsequently divided enemies into two categories. "Technical enemies" were those residing in countries which had been invaded by Nazi Germany and its allies. These were the Baltic States (Lithuania, Latvia, and Estonia), Belgium, British Dependent Territories (including the Channel Islands, Hong Kong and North Borneo), Czechoslovakia, Denmark, France, Greece, Luxembourg, the Netherlands, Norway, Poland and Yugoslavia. "Belligerent enemies" were defined as those residing in countries which had declared war on the U.K. These included Austria, Bulgaria, Finland, Germany, Hungary, Italy, Japan, Romania and Thailand.

The Trading with the Enemy Act required all British banks, including Barclays, to yield control over all "enemy" accounts and other assets to a Government officer: the Custodian of Enemy Property. Assets of "belligerent enemies" were seized by the U.K.

Government and transferred directly to the Custodian. Assets of "technical enemies" could remain at financial institutions; however, they were frozen and remained under the Custodian's supervision. The assets affected included trade debts, commercial and personal bank accounts, insurance policies and other personal property such as assets left for safe-keeping. Most of the assets were trade debts. So, for example:

- The Act prevented French companies from receiving amounts payable from U.K. customers for services rendered before the Nazi invasion in June 1940; and
- The Act also denied access to U.K. bank accounts by British Citizens resident in France.

Post-War Disposition of "Enemy Assets"

Assets of "belligerent enemies" were never returned to British financial institutions at the conclusion of the war. The U.K. Government and the post-war governments of its belligerent enemies agreed to an offset procedure whereby the British Government would pay claims of its own citizens to assets seized by its enemies during the war; conversely the enemy governments agreed to reimburse their citizens for assets seized by the United Kingdom. Assets of "technical enemies" were treated differently. These were simply unfrozen at British financial institutions and were then available and accessible to the original customer.

As I am sure you appreciate, the Trading with the Enemy Act did not discriminate against Jewish customers; it affected all customers who resided in countries occupied by Nazi Germany or those at war with the United Kingdom whatever their citizenship

or religion. Nonetheless, it had an unintended and sometimes tragic impact on the families of those who perished during the war as a result of Nazi atrocities, or on those who survived the war but who lived in countries formerly at war with England. We know now that assets of "belligerent enemies" often were not returned to their rightful owners by the foreign governments that had committed to doing so; U.K. assets of customers who lived in Nazi-occupied countries and who perished during the war (and who left no heirs with knowledge of their assets in the United Kingdom) were often left unclaimed or "dormant". Thus the efforts of the British Government and the banking community in the United Kingdom in recent years has been focused on identifying assets of Jewish customers (and other victims of Nazi persecution) that were seized or frozen under the Trading with the Enemy Act and helping to trace the disposition (or present location) of those assets.

The U.K. Government Compensation Scheme

In March of 1999, the U.K. Government launched a compensation scheme to address the matter of assets affected by the Trading with the Enemy Act that were not returned to their rightful owners or their heirs. Claims for compensation may be made by any victim of Nazi persecution who had property in the United Kingdom which was seized and confiscated by the British Government. Particularly valuable in this respect is the U.K. Government's "Enemy Property" website: www.enemyproperty.gov.uk. The site lists both individuals and organizations that had assets seized under the Trading with the Enemy Act. This searchable database contains approximately 30,000 names.

The compensation scheme is administered by the Enemy Property Claims Assessment Panel ("EPCAP") and is chaired by the Right Honorable Lord Archer of Sandwell, QC. Submission of claims must be made by September 30, 1999. Claim forms are available from the EPCAP Secretariat as follows:

Enemy Property Claims Assessment Panel
Room 116-118
10 Victoria Street
London SW1 ONN
Telephone: 020 7215 3485
Fax: 020 7215 3487
Email: property.enemy@frmd.dti.gov.uk.

I understand that approximately 350 claims have been received by Lord Archer's panel. In early August, the United Kingdom Secretary of State for Trade and Industry announced that the approval process was proceeding and that the first of the filed claims had been approved.

Barclays Efforts in the U.K.

For more than two years, Barclays has devoted substantial time and resources to identifying client assets affected by The Trading with the Enemy Act. The bank is in close contact with both the Department of Trade and Industry - the agency responsible for Trading with the Enemy Act records - and the Holocaust Educational Trust - an institution devoted to Holocaust research and ably led by Lord Greville Janner. Over the course of the last two years, Barclays has responded to all requests for information from customers or their heirs for assistance in tracing assets believed still to exist in the U.K. In each case,

the Bank has conducted an exhaustive search of its internal records for any information that might be of assistance in responding to such inquiries. Unfortunately more than half a century has elapsed since the end of the war. Nonetheless, by piecing together available information at Barclays with records maintained by the British Government we have been able to provide significant assistance to people seeking unclaimed assets.

In addition, Barclays has undertaken a massive effort in the United Kingdom to identify dormant accounts that may date back to the war-time era, including any dormant accounts of those considered "technical enemies" during the war. Typically, an account becomes dormant in the United Kingdom if there has been no activity for more than three years. At that point it was - and is today - Barclays practice and policy to make several attempts to locate the dormant accountholder. Such accounts are afforded protected status; they can be reactivated by the rightful owner at any time. In other words, we have no escheat laws in the United Kingdom, such as are in place here or, for example, in France which apply to customers' money. Barclays has never refused - and would never refuse - any legitimate claim to any dormant account. The Bank is currently undertaking a comprehensive mailing to accountholders in yet another effort to obtain information about unclaimed assets.

Let me now turn to our activities in France during the war and our ongoing efforts to address issues in France today.

Barclays Activities in France Before the Occupation

As of the spring of 1940, Barclays activities in France were conducted through a subsidiary wholly owned by its British parent, Barclays Bank PLC. The French subsidiary had begun operations in 1914 as the banking agent for the British Army during World War I. Although remaining small in comparison to its French competitors, the bank conducted its activities in France through 14 branches many of which were located in the south of France. The bank catered largely to British tourists and members of the British military stationed in France. Until the commencement of World War II, the head office of Barclays France was based in London, with its chief banking operations in France based in Paris.

On May 10, 1940, France was invaded by Germany. Paris fell 35 days later. Until its liberation over four years later, France was occupied - first in the northern half of the country and, as of 1942, in its entirety - by Germany. German laws were imposed in occupied zones, and the collaborationist French government in Vichy was quick to impose copycat legislation in the free zones. Unlike Switzerland, which remained neutral during World War II, France was conquered early and subjugated for the duration. This must be kept in mind in order to understand what happened in France both during and after the war.

The commencement of the war threw Barclays France into disarray. All the bank's British staff, which included the resident Director and most of the Branch Managers, departed for England shortly after the war began. Upon Germany's invasion, the northern

branches of the bank and the bank's general management evacuated to the unoccupied south. Deposits were withdrawn on a large scale as customers left the country or questioned the continued stability of a British bank operating in wartime France. Twice the Bank of France blocked the accounts of Barclays France, once in retaliation for the blocking of French assets in the United Kingdom under the Trading with the Enemy Act.

Responsibility for Barclays France operations during the war years fell to Marcel Cheradame, a French citizen and the bank's General Manager. In August 1940, the Bank was permitted to recommence operations, but only after Monsieur Cheradame relayed to the German authorities that the Bank no longer had any British staff and that any remaining British accounts had been blocked. Operations, however, were hampered by the division of France into an Occupied and non-Occupied zone. The bank's branches in Paris, Boulogne-sur-Mer, Le Havre, Rouen, Bordeaux and Biarritz fell within the zone occupied by Germany; Marseilles, Lyons, Nice, Cannes, Menton, and Aix-les-Bains fell within the non-Occupied zone. Postal and telegraphic services between the two zones were suspended, making contact impossible between Paris and the branches in the non-Occupied zone. Additionally, funds transfers between the zones was forbidden. Ultimately, in January 1941 the bank sought to address these problems by establishing General Management offices for the non-Occupied zone in Marseilles.

Attempting to seek some guidance during this period of chaos, Monsieur Cheradame managed to send a telegram to Barclays management in England. He received a telegram in response stating, "Existing legislation takes all questions raised out of

our control and we cannot advise you". This position was mandated by the Trading with the Enemy Act in the U.K. As a result Barclays France was completely cut off from its British parent until after the liberation of France in August, 1944.

At the conclusion of the war, British managers returned to France to learn that the bank had survived the war but that, as an enemy bank, its activities had been placed under the control of two German Controllers - or Kommissarischer Verwalter der Feindbanken, as they were titled in German - throughout the duration of hostilities. The Controllers represented the Bank in all legal and non-legal matters, with the exception of certain transactions that required the prior consent of the occupying German military government, such as disposition or acquisition of assets and transactions that favoured the enemy. The powers of the Bank's managers, on the other hand, were suspended for the duration of their control. At the direction of these Controllers, the Bank had been forced to act as the depository for certain funds, being enemy assets frozen by the German authorities (largely those of British and American citizens and entities); arrangements were made for those assets to be returned under the auspices of the French government at the war's end. In addition, Monsieur Cheradame was ordered to open several other German accounts. These accounts too were liquidated by the French government after the war.

Barclays Current Investigation of Activities in France During the War

In the last several years, the Government of France has announced its commitment to addressing the atrocities that took place in France during the war, in particular

the atrocities suffered by Jewish residents of France. As the Committee is also no doubt aware, litigation was commenced in the Eastern District of New York against many French banks, and Barclays, seeking compensation from those conducting banking activities in France during the war. These events led Barclays to undertake an exhaustive investigation of its subsidiary's wartime activities in France. Consistent with the bank's commitment to learn the truth and to do what is fair and right, we undertook a massive investigation into our operation during the years of the war and its aftermath, an investigation the scope of which far exceeded anything that the French government has asked that we provide and anything that the pending lawsuit would ever require. To conduct the investigation, we retained Floyd Abrams and the law firm of Cahill Gordon & Reindel, instructing them to leave no stone unturned in their efforts. We named our project "Lumiere," choosing a French word that described our commitment to shed light on the dark years of World War II.

This was no easy undertaking. As you can no doubt appreciate, the documentation of events that took place over fifty years ago is fragmentary at best. This problem was exacerbated by a 1978 revision in French law that shortened the period banks were required to retain general documents from thirty years to ten years. Moreover French escheat laws required that any dormant assets be transferred to the French government more than twenty years ago. The net result of this was that very little documentation concerning accounts from the wartime period was retained by Barclays. This did not, however, discourage us from beginning our investigation with a thorough search of Barclays France archives.

Our investigation of Barclays France began in the Paris head office, where a team of attorneys ascertained the contents of the bank's archived documents and identified potentially relevant materials for review. The vast majority of those documents were housed in two external archival facilities in France. The Lumiere team also conducted a comprehensive search of the bank's internal archives at its Paris headquarters for all documents from the relevant time period. In all, over 650 boxes of documents from these Barclays archives were identified and reviewed.

Our search of the materials held by Barclays France was not limited to Paris. Members of the Lumiere team continued the investigation at each of the branches of the French bank throughout France, searching vaults, examining safety deposit boxes, and reviewing the moldering documents that remained from the wartime era. Countless present and former bank employees were also interviewed, with hopes of gleaning additional information about the handling of wartime accounts. The investigation of Barclays internal materials concluded with reviews of potentially relevant archive documents in both England and New York.

No comprehensive records of customer accounts from the wartime era were located in the search of Barclays internal documents. Given the passage of time and French document retention laws, this was not surprising. We felt, however, that it mandated the additional step of expanding our investigation to include external research sources. The Jewish Contemporary Documentation Centre in Paris was our first such research destination. Members of the Lumiere team then spent several months at the French

National Archives, reviewing a wide range of French and German documents. The Paris Archives were another source of relevant documents. Additional sources of pertinent materials reviewed by the Lumiere team included the French Ministry of Finance, a French government owned national savings institution entitled the Caisse des Depots et Consignations, the French Ministry of Foreign Affairs, the Prefecture de Police, the Banque de France, the French Bankers Association, the Paris Stock Exchange and the French National Library.

Although the bulk of the Lumiere team's research was properly focused in France, it quickly became clear that research outside France would also be fruitful. The scope of investigation was expanded to include Germany, where research was conducted at the German Federal Archives in Berlin, Brandenburg, Freiburg, Koblenz, Meiningen, Nuremberg, Thuringia and Weimar, the German Foreign Office, the Deutsche Bundesbank and the German Ministries of Finance and Economics. Lumiere team members were also dispatched to the U.S. National Archives and the New York Public Library. Finally, wartime materials from the Bank of England, the British Public Records Office and the British Foreign Office were reviewed. The total number of research hours during the course of the investigation was equivalent to 1,400 days.

The result of this tremendously comprehensive investigation was a far more complete picture of the bank's wartime efforts than we had previously believed possible to create. While a complete explanation of our findings is not possible in the brief time I am allowed today, I would like to share with you some of our major findings.

The Impact of Nazi and Vichy Discriminatory Laws

As you are no doubt aware, both the German regime and the French government in Vichy enacted laws that specifically discriminated against Jews in France. In the banking sphere, those laws required French financial institutions to block all assets in bank accounts or securities accounts held by Jewish clients in the Occupied Zone. Access to blocked accounts was limited at the time to monthly living allowances not exceeding 15,000 FF per month. Our investigation revealed that Barclays France did comply with the discriminatory laws of the German and French authorities. Where possible, however, in situations where Barclays was granted a measure of discretion, it sought to take what steps it could to assist its customers. For example, when a Jewish customer who had fled France sought to access his funds, Barclays actively assisted his efforts to do so. And, monthly allowances made by Barclays France were often larger than the amounts requested by Jewish accountholders.

One of the Germans' most notorious acts of financial discrimination against the French Jewish community was the imposition in December 1941 of a "Billion Franc Fine" on Jews of French nationality living in the Occupied Zone. To raise the funds necessary to pay this amount, the Vichy Government passed a law requiring banks to send 50% of all cash accounts containing more than 10,000 FF to a special bank account from which the "fine" was to be paid. Our investigation concluded that although a strict application of this law would have impacted dozens of our accountholders, only 7 of our Jewish clients' accounts had funds deducted for this payment - and most of those accounts had, contrary

to the letter of the law, less than 50% seized from them. After the war, amounts seized to pay the "fine" were returned to bank depositors by the French government.

The Germans also forced open the safe deposit boxes of bank customers, beginning as early as the summer of 1940, in an effort to identify and block foreign currencies, gold and foreign securities. The contents of some safe deposit boxes were seized and used to fund the German war effort. The initial safe deposit box openings demonstrated no pattern among customers, but later openings appear to have specifically targeted the nationals of countries deemed to be enemies of Germany, regardless of their religion. Documents regarding the restitution of safe deposit box assets indicate that safe deposit boxes were opened by the Devisenschutzkommando in spite of the protests of Barclays bank managers.

The safe deposit boxes of Jewish persons were searched as part of a general German program. In addition, however, another anti-Semitic French law, adopted in 1941, restricted Jewish depositors from accessing their safe deposit boxes except to remove documents of no commercial value. Securities and bank notes were only permitted to be removed if placed immediately in a blocked account by the bank. The net result of the anti-Jewish banking legislation in France was that Jewish persons could not access their assets in any meaningful way during the war.

Post-War Restitution Efforts in France

Shortly before the end of the war, the London-based French Provisional Government in exile (headed by General Charles de Gaulle) declared all acts of the Vichy regime to be null and void. The Provisional Government implemented this sweeping approach after the liberation of Paris by immediately enacting statutes that established legal procedures for the return of Jewish assets to their rightful owners.

Pursuant to one such statute, Jewish accounts blocked pursuant to wartime laws were simply and totally unblocked by the banks. No formalities were required. Unlimited customer access was restored.

A major restitution program was implemented in 1948 and subsidized by a new National Solidarity Tax. Under the 1948 program, the French government reimbursed fees that had been assessed against bank accounts or charged against the proceeds of sold and liquidated properties. The French Government also paid restitution to the owners of securities that had been liquidated pursuant to French wartime laws. Banks helped to process restitution claims and assisted customers in recovering assets. Notably, Barclays actively assisted its clients in obtaining restitution of assets taken by occupying authorities from their Barclays accounts, as well as from accounts at other banks.

Findings Concerning Barclays Customers

Our investigation identified a number of specific efforts made by Barclays France to assist its clients and others in obtaining restitution of their assets and funds. The

bank wrote supporting letters to French agencies to accompany restitution requests by clients. It also made declarations of looted property on behalf of clients whose assets were confiscated from safe deposit boxes.

In addition to gaining an understanding of what occurred in France both during and after World War II, we also accumulated financial information about wartime accounts. As I previously mentioned, Barclays France during the war years was relatively small compared to its French competitors. The total amount on deposit in Barclays France at the beginning of the German occupation was roughly 900,000,000 FF. The Lumiere investigation identified approximately 350 names of Jewish customers at Barclays France at the time of the occupation. The total deposits of these Jewish customers was approximately 39,400,000 FF. Of this amount, we found evidence that more than 13,200,000 FF was reclaimed by bank customers or their heirs or was restituted after the war by the French Government. A further 24,100,000 FF is traceable to accountholders who themselves survived the war or whose heirs survived the war and otherwise participated in the restitution process. These accounts were freely accessible once unblocked. We have no specific information concerning the disposition of the remaining 2,100,000 FF in assets. However, all accounts were unblocked at the end of the war and we uncovered no information inconsistent with the likelihood that these moneys were either withdrawn during the war or accessed after the war by their rightful owners or their heirs. Indeed, our investigation indicates that Barclays holds no funds of Holocaust victims in France today.

Finally, in complete cooperation with the current efforts underway in France to trace wartime assets, Barclays has provided the results of its investigation as requested by the St. Geours Committee in France.

The Settlement of the Litigation

Notwithstanding our own conviction, based on the wide-ranging research we have completed, that Barclays does not have any funds of Holocaust victims in France, we determined to settle the class action currently pending in the United States and agreed to a settlement. The settlement, which is subject to the approval of the Court, establishes a fund in the amount of \$3,612,500 for the payment, in the first instance, of valid claims on behalf of any Jewish customer of Barclays France (if any should be located) for the restitution of assets deposited with the Bank before and during the occupation of France. The remainder of the fund will be donated to support Holocaust research. From the outset of the litigation, Barclays approached the claims with the utmost seriousness and respect. Rather than moving to dismiss the case, we thought it far more appropriate to devote our time and resources to a comprehensive research effort without any limitations imposed - except that of finding out where the truth lay. We are pleased that when the settlement was announced, the attorney for the plaintiffs praised Barclays for "acting responsibly and in a forthright manner."

It is our hope that Project Lumiere will set an example for others that are confronted with the tragic aftermath of the horrors that consumed so much of the world and that victimized so many innocent people.

Thank you very much for your time and attention.